

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



August 9, 1999

ALL COUNTY INFORMATION NOTICE NO. I-52-99

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS**REASON FOR THIS TRANSMITTAL**

- ☒ State Law Change
☐ Federal Law or Regulation Change
☐ Court Order
☐ Clarification Requested by One or More Counties
☐ Initiated by CDSS

SUBJECT: CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CalWORKs) 60-MONTH TIME LIMIT REGULATIONS

REFERENCE: WELFARE AND INSTITUTIONS CODE (WIC) SECTIONS 11454, 11454.5 AND 11495.1 AS ENACTED BY ASSEMBLY BILL (AB) 1542, (CHAPTER 270, STATUTES OF 1997), AND AB 2772, (CHAPTER 902, STATUTES OF 1998); ALL COUNTY LETTERS (ACLs) 97-65, 97-68, 98-09, AND 98-44.

The purpose of this letter is to inform County Welfare Departments (CWDs) of changes to regulations and instructions regarding the CalWORKs program's 60-month time limit for cash aid. These regulations include the provisions enacted by AB 1542 and AB 2772. The regulations have been submitted to the Office of Administrative Law and are effective August 1, 1999.

Summary of the Changes to the Regulations

The regulations reflect the 60-month time limit policies previously established in ACLs 97-65, 97-68, 98-09, and 98-44 except for the following clarifications and additions:

- Section 42-302.2 – clarifies that the 60-month time limit applies to all cases in cash grant status, including Reduced Income Supplemental Payments (Section 44-400) and Special Needs (Section 44-211).
- Section 42-302.21(h) – adds an exemption to the 60-month time limit for individuals living in Indian country, as defined by federal law, or an Alaskan native village in which at least 50 percent of the adults are unemployed. Unemployment rates for tribal lands are not available through the Federal Bureau of Indian Affairs. Rather, counties must obtain the information on unemployment rates through the governing agency of each tribal land.

This exemption instructs counties not to count months toward the Federal and state CalWORKs 60-month time limit when an individual lived in Indian country, or an Alaskan native village, with at least a 50 percent unemployment rate.

- Section 42-302.21(i) – adds a provision to specifically exempt individuals from the 60-month time limit who are former recipients of cash aid and are only receiving child care, case management or supportive services. This is added for clarity and is consistent with the policy set by previously existing time limit regulations.

This exemption instructs counties not to count months toward the state CalWORKs 60-month time limit when an individual is a former recipient of cash aid and is only receiving child care, case management or supportive services.

- Section 42-302.21(j) – adds an exemption to exclude months from the CalWORKs 60-month time limit for recipients when no cash aid payment is received because the grant amount is \$10 or less. The Department has adopted this section in order to be consistent with the exemption provided in AB 2772, which excludes months from the 60-month time limit when former recipients of cash aid are receiving only child care, case management or supportive services.

An individual in a grant based On-the-Job Training (OJT) assignment, in which the grant is diverted to the employer as a wage subsidy to offset the participant's wages, does not qualify for the exemption for a grant amount of \$10 or less.

- Section 42-302.22 – clarifies that diversion payments count toward the state CalWORKs 60-month limit unless they are recouped or unless part or all the diversion period is exempt as provided in Section 42-302.21 et seq. This provision is included to clearly apply the time limit exemptions to months of diversion payments.
- Section 40-107.14 – adds a provision to instruct counties to inform recipients of the time limit exemptions and the process by which recipients can claim the exemptions.

Implementation Date

The counties shall apply these provisions in tracking aid for purposes of the 60-month time limit from January 1, 1998, when the CalWORKs program was initially implemented.

If you have any questions regarding the 60-month time limit, please contact Charissa S. Miguelino at (916) 657-3665 or CALNET at 437-3665.

Sincerely,

Original document signed by

Charr Lee Metsker on 8/9/99

CHARR LEE METSKER, Chief

Employment and Eligibility Branch

Attachment

c: CWDA
CSAC

Amend Section 40-035 to read:

40-035	IMPLEMENTATION OF REGULATIONS PURSUANT TO WELFARE AND INSTITUTIONS CODE SECTIONS 11454, 11454.5 AND 11495.1, ENACTED BY ASSEMBLY BILL (AB) 1542, CHAPTER 270, STATUTES OF 1997) <u>AND WELFARE AND INSTITUTIONS CODE SECTION 11454.5, AMENDED BY ASSEMBLY BILL (AB) 2772, CHAPTER 902, STATUTES OF 1998</u>	40-035
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.1	Sections Implemented	<p>The following sections have been adopted or amended to comply with the new 60-month time limit provisions as set forth in Welfare and Institutions Code Sections 11454, 11454.5 and 11495.1 and 42 U. S. C. 608(a)(7)(A) and (B). These provisions were enacted by AB 1542, Chapter 270, Statutes of 1997. <u>Welfare and Institutions Code Section 11454.5 is amended by AB 2772, Chapter 902, Statutes of 1998.</u> The regulatory action will:</p> <p>Establish a 60-month limit for the receipt of aid for adults and the exceptions under which adults may receive aid beyond 60-months.</p> <p>Specify how and when months of aid are counted toward the 60-month time limit, and identify the criteria for excluding months from the count.</p> <p>Define what aid counts toward the 60-month time limit.</p>
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.11	Sections Adopted	<p><u>40-107.14 County Responsibility</u></p> <p>42-300 General Time Limit Requirements</p> <p>42-301 General Time Limit Requirements For Adults</p> <p>42-302 60-Month Time Limit Requirements For Adults</p>
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.12	Sections Amended	<u>42-302.2 (Counting the 60-Month Limit),</u> <u>42-302.21 (Exempt Months) and 42-302.22</u> <u>(Diversion Count).</u>
	Effective Date	<p data-bbox="857 367 1305 466">82-832 Excluded Persons - Adds Persons who are Ineligible for Aid on the Basis of Exceeding the Time Limit Requirements</p> <p data-bbox="857 493 1433 592">All regulatory action implementing the provisions of AB 1542, Chapter 270, Statutes of 1997 shall become effective July 1, 1998.</p> <p data-bbox="857 619 1433 678"><u>See Section 42-301.1 for the effective date of the time limit requirements.</u></p>

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11454, 11454.5, 11454.5(b)(4) and (5) and 11495.1, Welfare and Institutions Code.

Amend Section 40-107 to read:

40-107 COUNTY RESPONSIBILITY

40-107

.1 Assisting the Applicant

The county is responsible for assisting applicants or recipients in understanding their rights and responsibilities in relation to application for aid; for evaluating the capacity of the applicants or recipients to discharge their responsibilities as set forth in Section 40-105; for assisting them as needed in establishing their eligibility and helping them to realize the maximum personal independence of which they are capable, including self-care and self-maintenance.

.11 (Continued)

.12 (Continued)

.13 (Continued)

.14 At the time an individual applies for aid or at the time a recipient's eligibility for aid is determined, the CWD shall provide the individual, in writing and orally as necessary, a description of the 60-month time limit requirements, including the exemptions from the time limit, as provided in Sections 42-302.11 and 42-302.21 and the process by which recipients can claim the exemptions.

.15 through .18 (Continued)

.2 through .8 (Continued)

Authority cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11268, 11324.8(a) and (f)(1), AB 312, Chapter 1568, Statutes of 1990, 11500(b), 11502(b), and 11511(a), Welfare and Institutions Code; 42 USC Sections 682(c)(2), (3), (4) and (5); 45 CFR 205.42(d)(2)(v)(A) and (B) as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 205.55; 45 CFR 250.20; 45 CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; 45 CFR 256.1(b), and California Department of Health Services Manual Letter 77-1.

Amend Section 42-301 to read:

CHAPTER 42-300 GENERAL TIME LIMIT REQUIREMENTS

42-301 GENERAL TIME LIMIT REQUIREMENTS FOR ADULTS 42-301

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|----|-------------------------------|---|
| .1 | Time Limits | Effective January 1, 1998, there shall be time limits on the receipt of aid for certain adults as specified in Section 42-302.1. Prior to this date, no months shall count toward the time limit provisions. |
| .2 | Ineligible Due to Time Limits | Persons who are ineligible for aid based on the 18-and 24-month time limit provisions, specified in Sections 42-710; <u>and 42-711.94</u> , and/or the 60-month time limit provisions, specified in Section 42-302, shall be removed from the AU. |

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11450 and 11454(a), (b) and (c), Welfare and Institutions Code.

Amend Section 42-302 to read:

42-302 60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS 42-302

- .1 60-Month Time Limit

Except as specified in Section 42-302.11, no individual shall be eligible for aid when that individual has received aid as an adult, 18 years of age or older, for a cumulative total of 60 months. The 60-month time limit applies both to aid received under CalWORKs and under another state's program funded by the federal Temporary Assistance to Needy Families (TANF) Program. The 60-month time limit shall not apply to children.
- .11 Exceptions

When an individual has been aided as an adult for 60 months, aid may continue for that adult when all parents, aided stepparents, and/or caretaker relatives residing in the home of the aided child(ren) meet any of the following conditions:

 - .111 Advanced Age

The individual is 60 years of age or older.
 - .112 Providing Care

The individual is exempt from welfare-to-work participation requirements due to:

 - (a)

The need to care for an ill or incapacitated person residing in the home, and the caretaking responsibilities impair the individual's ability to be regularly employed or to participate in welfare-to-work activities.
 - (b)

Being a nonparent caretaker of either a dependent child of the court or, as determined by the county, a child who is at risk of placement in foster care. For this exemption to apply, the county must also determine that the caretaking responsibilities are beyond those considered normal day-to-

day parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in the welfare-to-work activities.

.113 Disabled

The individual is receiving benefits from State Disability Insurance, Worker's Compensation Temporary Disability Insurance, In-Home Supportive Services, or the State Supplementary Program, and the disability significantly impairs his/her ability to be employed on a regular basis or to participate in welfare-to-work activities.

.114 Unable to Maintain Employment or Participate

The individual is not able to maintain employment or to participate in welfare-to-work activities, as determined by the county, based on the assessment of the individual and the county's finding that the individual has a history of participation and full cooperation in welfare-to-work activities.

.115 Unaided

The individual is excluded from the AU for reasons other than exceeding the time limit.

.12 Domestic Abuse

When an individual has been aided as an adult for 60 months, aid may continue for that adult when the individual is a victim of domestic abuse and the county has determined that good cause exists for waiving the 60-month time limit. See Section 42-713.22.

.2 Counting the 60-Month Limit

Any month or partial month in which an adult is included in an AU that receives a cash grant, including ~~Zero Base Grants (Section 44-315.9)~~ and Reduced Income Supplemental Payments (Section 44-400) and Special Needs, (Section 44-211), shall count for the purposes of the 60-month time limit, except as provided in Sections 42-302.21 (Exempt Months) and 42-302.22 (Diversion Count).

.21 Exempt Months

Any month in which any of the following conditions exist for any period during the month shall not count toward the 60-month limit as specified:

(a):~~211~~Disability

The individual is exempt from welfare-to-work participation requirements due to a verified disability that is expected to last at least 30 days.

(b):~~212~~Providing Care

The individual is exempt from welfare-to-work participation requirements due to:

(a)~~1~~

The need to care for an ill or incapacitated person residing in the home, and the caretaking responsibilities impair the individual's ability to be regularly employed or to participate in welfare-to-work activities.

(b2)

Being the nonparent caretaker of either a dependent child of the court or, as determined by the county, a child who is at risk of placement in foster care. For this exemption to apply, the county must also determine that the caretaking responsibilities are beyond those considered normal day-to-day parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in the welfare-to-work activities.

~~(c).213~~ Domestic Abuse

The individual is a victim of domestic abuse and the county has determined that good cause exists for waiving the 60-month time limit. See Section 42-713.22.

~~(d).214~~ Teen Program

The individual is eligible for, participating in, or exempt from Cal-Learn or another teen parent program approved by the CDSS. The exemption does not apply to an individual who is 19 years of age and is eligible for voluntary participation if the individual chooses not to participate in Cal-Learn.

~~(e).215~~ Advanced Age

The individual is exempt from welfare-to-work participation requirements due to being 60 years of age or older.

~~(f)~~216 Unaided

The individual is excluded from the AU for reasons other than exceeding the time limit.

~~(g)~~217 Aid is Reimbursed

The cash aid is fully reimbursed as a result of child support collection whether collected in that month or any subsequent month. This includes child support reimbursements for months of aid from other states.

(~~a~~1) Other States

When the individual's 60-month time limit has been reached and the individual declares that months of aid have been fully reimbursed in another state as a result of child support collection, the county shall verify this information and credit ~~the~~ any verified month(s) for California's 60-month time limit.

(h) Living in Indian Country

The individual lived in Indian country, as defined by federal law, or an Alaskan native village, in which at least 50 percent of the adults living in the Indian country or in the village are not employed.

(i) Receiving Supportive
Services

The individual is a former recipient of cash aid and is only receiving child care, case management or supportive services.

(j) Grant Amounts \$10
Or less

The recipient does not receive a cash aid payment for the month because the grant amount is \$10 or less.

- .22 Diversion Count Diversion payments as set forth in Section 81-215 count toward the 60-month time limit unless they are recouped as provided in Section 42-302.223(a): or unless part or all of the diversion period is exempt as provided in Section 42-302.21 et seq. Count the months as follows:
- .221 Diversion Payment Month The month in which a lump sum diversion payment is made counts as one month toward the 60-month time limit unless the diversion recipient applies for CalWORKs cash aid during the diversion period, as specified in Section 81-215.41, and is determined to be eligible for CalWORKs. In that case, the diversion payment is treated in accordance with Section 42-302.223.

HANDBOOK BEGINS HERE

- .222 A recipient receives a diversion lump sum payment of \$1,800 in March. The month of March counts toward the 60-month time limit. The recipient's Region 2, Non-Exempt MAP amount is \$538. This results in a diversion period of three months for the months of March, April, and May. The recipient does not apply for CalWORKs cash aid during the diversion period. The recipient reapplies in September and receives another diversion payment of \$800 in September. The months of March and September both apply toward the 60-month time limit.

HANDBOOK ENDS HERE

- .223 Reapplies for CalWORKs If the diversion recipient applies for cash aid
During Diversion Period during the diversion period and is determined
eligible, the recipient shall have the option to:
- (a) Have the diversion payment recouped from the CalWORKs cash aid; or
- (b) Count the diversion payment toward the 60-month time limit.

(1)

The number of months counted toward the 60-month time limit is calculated by dividing the total diversion payment by the MAP for the apparently eligible AU at the time the diversion payment was made. The month(s) resulting from this calculation, less any partial month, is (are) counted toward the 60-month limit. Do not count the initial month (as counted pursuant to Section 42-302.221) twice.

HANDBOOK BEGINS HERE

.224

A recipient with a Region 2, Non-Exempt MAP of \$538 received a lump sum diversion payment in the amount of \$1,800 in March. The recipient returns to the county in May (within the diversion period), is determined eligible for CalWORKs cash aid, and opts not to have the \$1,800 diversion payment recouped from the CalWORKs cash aid. The diversion payment equates to 3.3 months of aid. The partial month is dropped, and the recipient has a total of three months (March, April, and May) counted toward the 60-month time limit.

.225

A recipient with a Region 2, Non-Exempt Map of \$538 receives a diversion lump sum payment of \$100 on March 2. The recipient reapplies for CalWORKs cash aid in the same month and is determined eligible. The month of March counts as one month toward the 60-month limit because the recipient received CalWORKs aid.

HANDBOOK ENDS HERE

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11266.5, 11454, 11454.5, 11454.5(b)(4) and (5) and 11495.1, Welfare and Institutions Code, and 42 U.S.C. 608(a)(7)(A), ~~and (B)~~ and (D).

82-832 Excluded Persons

82-832

.1 Person Who is
Excluded By Law
(Continued)

A person excluded from the AU by law is
a person who:

.14 Person Who Has Exceeded
the Time Limit

Is a person who has become ineligible
for cash aid due to exceeding the 18-, 24-
(Section 42-710), or 60-month time limits (Section
42-302) for aid.

.2 (Continued)

Authority Cited: Sections 10553, 10554, and 11270, Welfare and Institutions Code.

Reference: 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808, 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, 45 CFR 240.22, and 45 CFR 250.34(a) and (c), and (c)(2); Sections 11008.13, 11104, 11157, 11201(b), 11203, 11263.5, 11268, 11270, 11315, 11320.6(e), 11406.5, 11450, 11454, 11454.5, 11477, and 11486, Welfare and Institutions Code.